

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ENRIQUE TREVINO, JR.,

Plaintiff,

vs.

BANK OF NEW YORK MELLON,

Defendant.

Case No. 2:13-cv-1925-MMD-NJK

ORDER GRANTING MOTION  
TO STAY DISCOVERY

(Docket No. 7)

Pending before the Court is Defendants' motion to stay discovery in this Court pending a ruling on Defendants' motion to dismiss. *See* Docket Nos. 6, 7. The Court has reviewed the motion on its merits and finds good cause for granting it.

"The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). The case law in this District makes clear that requests to stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken a "preliminary peek" at the merits of the potentially dispositive motion and is convinced that Plaintiff will be unable to state a claim for relief. *Id.* at 602-603.

The Court finds these factors are present here. First, the motion to dismiss is potentially case-dispositive. Second, the motion to dismiss can be decided without additional discovery. Third, the Court has taken a preliminary peek at the merits of the motion to dismiss and believes Plaintiff will be

1 unable to state a claim for relief.<sup>1</sup>

2 Accordingly, the stipulation to stay all discovery is hereby **GRANTED**. In the event that the  
3 motion to dismiss is not granted in full, the parties shall submit a joint status report to the undersigned  
4 within 14 days of the issuance of the order resolving the motion to dismiss. That status report shall  
5 indicate what discovery needs to be completed and shall provide a proposed plan for completing it.

6 IT IS SO ORDERED.

7 DATED: October 24, 2013.

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10 NANCY J. KOPPE  
11 United States Magistrate Judge  
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26 Conducting this preliminary peek puts the undersigned in an awkward position because the  
27 assigned district judge who will decide the motion to dismiss may have a different view of its merits.  
28 *See Tradebay*, 278 F.R.D. at 603. The undersigned's "preliminary peek" at the merits of that motion  
is not intended to prejudice its outcome. *See id.*